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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	**CC Docket No. 96-128**
	)	
AT&T Request for Limited Waiver Of the Per-Call Compensation Obligation	)	

To: Chief, Common Carrier Bureau

REPLY OF SPRINT CORPORATION

The oppositions filed by American Public Communications Council (APCC) and the RBOC/GTE/SNET Payphone Coalition (hereinafter "RBOCs") to Sprint's Petition for Reconsideration of the Bureau's April 3, 1998 Order regarding interest on late payments, are wholly without merit.[1] Sprint pointed out that the Bureau's use of an 11.25 percent annual rate for late payments of payphone compensation due April 1, 1998, flew in the face of consistent Commission precedent using IRS rates (currently 8 percent). The parties' attempts to distinguish interest on late payments of this Commission-mandated payphone compensation from interest on Commission-mandated refunds of overcharges are unconvincing.

APCC claims (at 2) that in the case of refunds, the carrier's obligation to pay is not known until the Commission rules. What that has to do with the appropriate interest

[1] MCI filed in support of Sprint's Petition.

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rate to be assessed, however, is left unexplained by APCC.[2] The RBOCs, on the other hand, argue (at 5) that when a customer has overpaid for a tariffed service, it must merely be compensated for the opportunity cost of being deprived of the funds during the period prior to the refund, while PSPs incur capital costs when deprived of payments. That is simply not correct. The PSPs incur capital costs in buying and operating their payphones, and recovery of those capital costs should be included within a proper cost-based rate.[3] The only cost the PSPs incur when their payments are late is the opportunity cost of the funds during the short term. Thus, there is no distinction between interest on late payments of compensation and interest on refunds.

The RBOCs also claim (at 2-4) that the Bureau was bound to use 11.25 percent, because that is the rate the Commission used in its Second Report and Order. Sprint acknowledged in its Petition the possibility that the Bureau may have felt bound to employ such a rate because of the Commission's use of that rate in the Second Report and Order. The simple answer to this, if that is the case, is to refer Sprint's Petition to the full Commission for action, as Sprint itself urged. In any event, the rationale for the compensation rate adopted by the Commission in the Second Report and Order has since been held to be "plainly inadequate" by the U. S. Court of Appeals[4] because of its

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[2] APCC also claims (at 3) that carrier-tariffed late payment surcharges should be the model for the proper rate to be applied. However, APCC fails to show that the Commission has ever elected to use such a rate for Commission-mandated payments.

[3] Given, however, the RBOCs' position that payphone compensation should be "market" based, costs, including the cost of capital, should be wholly irrelevant to the RBOCs.

[4] MCI Telecommunications Corporation et al. v. FCC, CADC No. 97-1675, decided May 15, 1998.

illogical mixture of "market" and "cost" concepts, so the Commission's reasoning in that order is no longer of any binding effect.

Finally, the RBOCs' claim that Sprint's behavior is "execrable" because it did not pay compensation for the Fourth Quarter of 1997 by April 1, as the Bureau's earlier March 9 waiver order required,[5] is simply fatuous. Aside from the questionable nature of the March 9 Order,[6] the Bureau did not instruct the carriers how to compensate for certain payphones until an order released April 10, 1998 – after payments were due. How IXCs could be faulted for not paying in full on April 1, when full instructions on how to do so were not received until April 10 is not explained by the RBOCs. Moreover, the RBOCs, some of whom have been notoriously tardy in billing accurately for presubscribed interexchange carrier charges despite nearly eight months' notice to begin doing so, should not be throwing stones from their glass houses.

Respectfully submitted,

SPRINT CORPORATION

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June 3, 1998

[5] DA 98-481.

[6] The Bureau imposed an April 1 "deadline" for payment without any notice and opportunity for comment.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of Sprint was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 3rd day of June, 1998 to the below-listed parties:

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